



UNITED STATES DEPARTMENT OF COMMERCE

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Children's Hospital
Elland and Bethesda Avenue
Cincinnati, OH 45229-2899

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JUL 31 1990

DEPUTY ASST. COMM.

In re Patent No. 4,490,351 :
Issue Date: December 25, 1984 :
Serial No. 06/358,055 :
Filed: March 15, 1982 :
Inventor(s): Leland C. Clark :

LETTER

This is in response to your communication received July 6, 1990, regarding late acceptance of the maintenance fee.

The regulations provide at 37 CFR 1.378 the guidelines for filing a petition to accept delayed payment of the maintenance fee to reinstate an expired patent. A copy of the relevant regulation is attached.

Since a petition to accept delayed payment of the maintenance fee herein would be made more than six months after the expiration of the patent, the petition must be filed under 37 CFR 1.378(c)¹. A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(c) must be accompanied by (1) the required maintenance fee set forth in 37 CFR 1.20(e)-(j), (2) the surcharge set forth in 37 CFR 1.20(m); and (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely.

The showing must enumerate the steps taken to ensure timely payment of the maintenance fee. All the causes which contributed to the failure to timely pay the maintenance fee must be presented and supported with appropriate evidence. The showing can be verified by using the attached petition form which includes a

¹ Pursuant to 37 CFR 1.183, the Commissioner has suspended that portion of 37 CFR 1.378(c)(3) requiring a showing of circumstances "entirely outside the control of the patentee and those acting on behalf of the patentee" in paying the maintenance fee. See 1115 OG 18.

declaration according to 37 CFR 1.1 . Statements from all persons who contributed to the delay are also required. Further, petitioner should identify the party responsible for making the payment.

Further correspondence with respect to this matter should be marked on the front page of the communication to the attention of the Deputy Assistant Commissioner for Patents, Crystal Park Two, Suite 913, and addressed as follows:

By mail: Commissioner of Patents and Trademarks
 Box DAC
 Washington, D.C. 20231

By FAX: (703) 557-8331
Attn: Office of the DAC

Telephone inquiries should be directed to the Petitions Information Staff at (703) 557-4282.


Jeffrey V. Nase
Supervisory Petitions Examiner
Office of the Deputy Assistant
Commissioner for Patents

Attachments: Copy of 37 CFR 1.378
Copy of Petition Form Under 37 CFR 1.378